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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,705	09/27/2000	Gerhard Reichert	1663-L	6878

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EXAMINER

GOFF II, JOHN L

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 04/01/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/670,705

Applicant(s)

REICHERT, GERHARD

Examiner

John L. Goff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6 and 8-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6 and 8-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 5) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/3/03 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18, 24, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 18 and 24 require applying the primary sealant to only the corners of the channel adjacent the spacer and glazing sheets. This is in contrast to independent claims 1 and 16 which require applying the primary sealant entirely across the channel from the first glazing sheet to the second glazing sheet. It appears claims 18 and 24 should be cancelled as claims 4 and 7 were in Amendment B. This issue should be clarified and reworded as appropriate.

5. Claim 27 requires the spacer to be free of sealant when it is connected to the first and second glazing sheets. Independent claim 26 requires connecting the spacer to the first and

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second glazing sheets using an adhesive. It appears an adhesive encompasses a sealant (See specification page 10, lines 20-22 and page 11, lines 1-6 and 17-19). Applicant is asked to clarify what is meant by claim 27. This issue should be clarified and reworded as appropriate.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 5, 6, 9, 11, 13, 14, 19, 21, 23, 25-27, and 29 are rejected under 35

U.S.C. 102(e) as being anticipated by Town (U.S. Patent 6,002,521).

Town is directed to fabricating an insulating glazing unit. Town teaches the method comprises providing first and second glazing sheets, connecting a spacer (free of sealant) to the first and second glazing sheets using an adhesive such that an outwardly-facing channel is formed between the glazing sheets and the spacer and an insulating chamber is formed inward of the spacer between the glazing sheets, hermetically sealing the insulating chamber by applying a primary sealant into the outwardly-facing channel where the primary sealant extends entirely across the channel from the first glazing sheet to the second glazing sheet, and applying a secondary sealant into the outwardly-facing channel after the primary sealant is applied (Figures 1-11 and Column 4, lines 53-57 and 64-67 and Column 8, lines 10-14 and 45-48 and Column 9, lines 46-60 and Column 10, lines 44-57 and Column 11, lines 42-53). Town teaches the spacer

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may be formed of materials well known in the art including metal (Column 8, lines 15-19), the spacer may have a pair of notched corners (Figure 10), and the spacer may carry a desiccant (Column 8, lines 23-25). Town teaches the primary sealant may comprise materials exhibiting good adhesion to metal or plastic spacers including polyisobutylene (Column 8, lines 56-58). Town teaches the secondary sealant may comprise materials exhibiting good moisture resistance such as silicones (thermosetting) and urethanes (Column 9, lines 5-7).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 3, 8, 10, 12, 20, 22, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Town as applied above in paragraph 7, and further in view of Hodek et al. (U.S. Patent 5,655,282).

As shown above, Town teaches all of the limitations in claims 2, 3, 8, 10, 12, 20, 22, 28, and 30 except for a teaching on using a foam spacer and a teaching on using hot melt butyl sealant, low permeable sealant, and structural sealant. Hodek et al. are directed to an insulating glazing unit. Hodek et al. teach a pair of glass sheets separated by a spacer wherein the spacer is located inward from the perimeter of the glass sheets forming an outwardly-facing channel and an inward, insulating chamber (Figure 10 and Column 3, lines 21-29 and Column 7, lines 60-63). Hodek et al. teach first (154 of Figure 10) and second (155 of Figure 10) sealants applied to the

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spacer and glass sheets to provide a moisture barrier (Column 7, lines 63-66 and Column 8, lines 24-28). The first sealant may comprise a butyl adhesive (Column 11, line 31) including polyisobutylene (Column 11, lines 40-41), or a low permeable sealant (Column 8, lines 16-20). The second sealant may comprise a structural sealant made of a thermoset such as silicone (Column 8, lines 24-28). Hodek et al. further teach that it is well known in the art to use both foam and metal spacers carrying a desiccant (Column 4, lines 37-41 and 66-67), and it is known to use a spacer with a pair of notched corners (Figure 1).

Regarding claims 2, 3, and 30, as shown above Hodek et al. teach that it was known to use a foam spacer carrying a desiccant, and one of ordinary skill in the art at the time the invention was made reading Town in view of Hodek et al. would have readily appreciated using in the method of Town a foam spacer as suggested by Hodek et al. as only the expected results would be achieved.

Regarding claims 8, 10, 12, 20, 22, and 28, as shown above Hodek et al. teach sealants comprising butyl adhesive, low permeable sealant, and structural sealant applied to the spacer and glass sheets. Absent any unexpected results, one of ordinary skill in the art at the time the invention was made reading Town in view of Hodek et al. would have readily appreciated using in the method of Town sealants comprising butyl adhesive, low permeable sealant, and structural sealant as suggested by Hodek et al.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Town as applied above in paragraph 7, and further in view of Schlienkamp (U.S. Patent 4,519,962).

As shown above, Town teaches all of the limitations in claim 15 except for a teaching on using first and second sealant stations comprising first and second application nozzles to apply

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the sealants. Schlienkamp teaches a method and system for sealing the edges of insulating-glass panels. The sealing method of Schlienkamp is a continuous process wherein a glass pane is conveyed to a sealing station (Column 3, lines 23-27). A sealing nozzle then applies adhesive to the entire perimeter of the glass pane (Column 3, lines 42-44). It would have been well within the purview of one of ordinary skill in the art at the time the invention was made apply the sealants taught by Town using multiple sealant stations of the type suggested by Schlienkamp as only the expected results would be achieved.

11. Claims 16-18 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Town as applied above in paragraph 7, and further in view of Battersby (U.S. Patent 3,759,771).

As shown above, Town teaches all of the limitations in claims 16-18 and 24 except for a teaching on using a device comprising first and second applicators wherein the second applicator trails that of the first to apply the sealants. Battersby is directed to a method of making an insulating glazing unit (double glazing unit) (Column 1, lines 54-63). Battersby teaches providing a pair of glazing sheets separated by a spacer wherein the spacer (free of sealant) is spaced inwardly from the perimeter of the sheets forming an outwardly facing channel and in inward insulating channel (Figures 1 and 5-7 and Column 2, lines 24-29 and 57-60). Battersby teaches sealing the insulating chamber by simultaneously applying a first and second sealant into the provided outwardly facing channel. The sealants are applied through an applicator with two heads wherein the second applicator head trails the first, thus the second sealant covers the first (Figures 2-4 and Column 2, lines 63-71 and Column 3, lines 1-2 and 11-17 and 40-45).

Battersby teaches that the first and second sealants may be different (Column 4, lines 16-23), and the sealants comprise a wide variety of materials including polyisobutylene, polyurethane, and

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thermosets (Column 3, lines 62-63 and Column 4, lines 7 and 12-13). Battersby teaches that the sealants prevent the entry of dust and/or moisture into the insulating chamber (Column 2, lines 30-34). Battersby further teaches that the spacer may be formed of metal, plastics, or wood and may include a desiccant (Column 2, lines 40-44), and the spacer may have notched corners between the glazing sheets and the spacer with the first sealant applied in the notched corners (Figures 2-6 and Column 2, lines 45-56).

Regarding claim 16, it would have been well within the purview of one of ordinary skill in the art at the time the invention was made to apply the sealants taught by Town using a device comprising first and second applicators wherein the second applicator trails that of the first as suggested by Battersby as only the expected results would be achieved.

Regarding claim 17, it is noted that in the method and apparatus of Battersby a retractable applicator nozzle is not necessary. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a retractable first nozzle if the nozzle would disturb the application of the second sealant.

Regarding claims 18 and 24, it is noted these claims are rejected above in paragraph 4 as being indefinite. However, it is noted Battersby teaches the primary sealant may only be applied to the notched corners (Figures 2-6). One of ordinary skill in the art at the time the invention was made would have readily appreciated applying the primary sealant taught by Town only to the corners of the channel adjacent the spacer and glazing sheets as suggested by Battersby as only the expected results would be achieved, i.e. the spacer would be connected to the first and second glazing sheets.

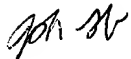
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Conclusion

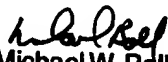
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **703-305-7481**. The examiner can normally be reached on M-Th (8 - 5) and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John L. Goff
March 24, 2003



Michael W. Ball
Supervisory Patent Examiner
Technology Center 1700